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September 27, 2002

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**BY ELECTRONIC FILING**

Ms. Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: RTO West Filing Utilities' Request for Expedited Procedural Clarification of  
September 18, 2002 Order; Docket No. RT01-35-005 and -007**

Dear Ms. Salas:

Enclosed please find the electronic filing on behalf of Avista Corporation, the Bonneville Power Administration, Idaho Power Company, Nevada Power Company, NorthWestern Energy, L.L.C. (formerly The Montana Power Company), PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company, joined by British Columbia Hydro and Power Authority (collectively, the "filing utilities"), a Request for Expedited Procedural Clarification and accompanying Certificate of Service.

As you will see from the Request, the filing utilities are requesting a technical clarification in keeping with the Commission's prior Order dated September 12, 2001. For reasons stated in the motion, we have requested expedited review and would very much appreciate a response next week in order to conserve resources and devote our time to the completion of the RTO West proposal.

Very truly yours,

/s/

Pamela L. Jacklin  
Of Attorneys for PacifiCorp and, for the purposes  
of this letter only, on behalf of the filing utilities

Enclosures

Oregon  
Washington  
California  
Utah  
Idaho



Ms. Magalie Roman Salas

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cc (w/ encl.): Parties on Service List  
California Public Utilities Commission  
Colorado Public Utilities Commission  
Idaho Public Utilities Commission  
Montana Public Service Commission  
Nevada Public Utilities Commission  
New Mexico Public Regulation Commission  
Oregon Public Utility Commission  
Public Service Commission of Utah  
Utah Department of Commerce  
Washington Utilities and Transportation Commission  
Wyoming Public Service Commission

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Avista Corporation,

Bonneville Power Administration,

Idaho Power Company,

The Montana Power Company,

Nevada Power Company,

PacifiCorp,

Portland General Electric Company,

Puget Sound Energy, Inc.,

Sierra Pacific Power Company

Docket Nos. RT01-35-005  
and RT01-35-007

**REQUEST FOR EXPEDITED PROCEDURAL CLARIFICATION**

On March 29, 2002, Avista Corporation, the Bonneville Power Administration, Idaho Power Company, Nevada Power Company, NorthWestern Energy, L.L.C. (formerly The Montana Power Company), PacifiCorp, Portland General Electric Company, Puget Sound Energy, Inc., and Sierra Pacific Power Company, joined by British Columbia Hydro and Power Authority, a nonjurisdictional Canadian utility, (collectively, the “filing utilities”) filed with the Federal Energy Regulatory Commission (the “Commission”) a Stage 2 Filing and Request for Declaratory Order Pursuant to

Order 2000, in accordance with Rule 207(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.207(a)(2) (2001) (the “Stage 2 Filing”).<sup>1</sup>

The Stage 2 Filing reflected a long, intense process of negotiation among the filing utilities, as well as collaboration and consultation with regional stakeholders, to develop a voluntary proposal under Order 2000.<sup>2</sup> This voluntary proposal was submitted to the Commission under Rule 207(a)(2) to inform the filing utilities as to whether the Commission would determine that RTO West as described in the Stage 2 Filing satisfies all of the characteristics and functions required of a Regional Transmission Organization under Order 2000.<sup>3</sup>

On September 18, 2002, the Commission issued a Declaratory Order on Regional Transmission Organization Proposal responding to the Stage 2 Filing, 100 FERC ¶ 61,274 (2002) (the “September 18 Order”). In the September 18 Order, the Commission directed the filing utilities to, among other things, “submit, in a compliance filing, within 120 days of the date of this order, (1) an RTO West Tariff, (2) a detailed ancillary services proposal and (3) a list of their transmission facilities together with the proposed disposition of each facility and the reason for such disposition, as discussed in

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<sup>1</sup> On April 22, 2002, the filing utilities submitted to the Commission an Errata Filing Relating to Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000 to correct certain errors in the Stage 2 Filing and to provide an explanatory narrative that should have been part of a document included in the Stage 2 Filing. On June 28, 2002, the filing utilities submitted to the Commission a Supplemental Informational Filing Related to Stage 2 Filing and Request for Declaratory Order Pursuant to Order 2000.

<sup>2</sup> *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh’g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. & Regs. ¶ 31,092 (2000), *aff’d sub nom. Pub. Util. Dist. No. 1 of Snohomish Cty., WA v. FERC*, Nos. 00-1174, et al. (D.C. Cir. 2001).

<sup>3</sup> See filing letter to Stage 2 Filing at 2, 5, 11, 63-64.

the body of this order.”<sup>4</sup> In numerous instances when the Commission concluded that some aspect of the Stage 2 Filing did not fully comply with the requirements of Order 2000, the September 18 Order contained language directing or requiring the filing utilities to take some further action, such as provide additional information, modify certain aspects of the RTO West proposal, or clarify specific provisions of the RTO West proposal documents.<sup>5</sup>

Previously in Docket No. RT01-35, the Commission issued an order directing the filing utilities to submit a compliance filing in accordance with Commission guidance. The Commission ordered in its July 12, 2001 Order Granting Rehearing in Part and Granting Clarification, in Part (the “July 12, 2001 Order”) that the filing utilities “submit a compliance filing in accord with these determinations within 30 days of the date of this order.” 96 FERC ¶ 61,058, at 61,182 (2001).

In response to the July 12, 2001 Order, the filing utilities submitted two filings: an RTO West Filing Utilities’ Response to July 12, 2001 Order (filed July 25, 2001) and a Motion for Clarification or, in the Alternative, Petition for Rehearing of the RTO West Filing Utilities (filed August 13, 2001). These filings urged the Commission to clarify that, because the July 12, 2001 Order related to elements of the RTO West proposal that had been submitted to the Commission in a declaratory proceeding (rather than under

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<sup>4</sup> September 18 Order, section following P 277.

<sup>5</sup> See, e.g., September 18 Order at PP 30, 47, 70, 82, 104 *et al.*

section 203 or 205 of the Federal Power Act<sup>6</sup>), it was premature for the Commission to direct a compliance filing.

On September 12, 2001, the Commission responded to the filing utilities' July 25, 2001 and August 13, 2001 filings with an Order Granting Clarification of Prior Order, 96 FERC ¶ 61,265 (2001) (the "September 12, 2001 Order"). In the September 12, 2001 Order the Commission recognized that the filing utilities should not be required to submit a compliance filing in the context of a declaratory order request. Specifically, the Commission stated:

"In view of the fact that the July 12 Order concerned RTO West Filing Utilities' petition for a declaratory order, and RTO West Filing Utilities have not reflected their proposal in section 203 and section 205 filings, we agree that it was premature to require a compliance filing in the July 12 Order. Accordingly, we will grant RTO West Filing Utilities' request for clarification that they are not required to submit a compliance filing in response to the July 12 Order and dismiss their July 25 response as unnecessary." *Id.* at 62,018.

The Commission's reasoning in the September 12, 2001 Order applies equally to the Stage 2 Filing. As noted above, the Stage 2 Filing was submitted to the Commission as a petition for a declaratory order under Rule 207 of the Commission's Rules of Practice and Procedure. The filing utilities have made no filings with the Commission under sections 203 or 205 of the Federal Power Act in connection with the RTO West proposal. There is therefore no basis for the Commission to direct a compliance filing. At the same time, the filing utilities continue to recognize that tariff and other filings

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<sup>6</sup> 16 U.S.C. §§ 824b, 824d (2002).

under the Federal Power Act will be necessary to move RTO West from a conceptual proposal to an operational entity that provides transmission services.<sup>7</sup>

As was the case with the July 12, 2001 Order, as a procedural matter it is premature for the Commission in the September 18 Order to direct or otherwise require the filing utilities to submit compliance filings or modify proposal elements in connection with the RTO West docket. The Commission indicated that certain aspects of the RTO West proposal, as described in the Stage 2 Filing, do not yet meet the requirements of Order 2000 (or that the Stage 2 Filing did not provide sufficient information to make a determination).

The Commission also provided significant guidance in the September 18 Order as to the manner in which the RTO West proposal could be modified or supplemented to fully comply with Order 2000.<sup>8</sup> The filing utilities will work diligently over the next several months to further develop the RTO West proposal. The Commission's guidance in this regard will be extremely helpful.

In view of the RTO West docket's current status as a declaratory order proceeding, the filing utilities respectfully request that the Commission issue an order clarifying that it is premature to require them to submit compliance filings in response to the September 18 Order. The filing utilities further request that the Commission issue its

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<sup>7</sup> See filing letter to Stage 2 Filing at 11-16.

<sup>8</sup> To the extent filing utilities may disagree with a Commission finding or rationale in the September 18 Order, they may revise the RTO West proposal or provide further information or justification for a particular aspect of the proposal in subsequent filings with the Commission. This approach is appropriate given the procedural status of this docket.

clarifying order on an expedited basis, by no later than October 7, 2002, so that both the filing utilities and other affected stakeholders will be spared the potential burden and expense of filing requests for rehearing on this matter.

Respectfully submitted this 27<sup>th</sup> day of September, 2002.

/s/ Pamela L. Jacklin  
Pamela L. Jacklin  
Of Attorneys for PacifiCorp and, for purposes of  
this filing only, on behalf of the filing utilities



## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing Request for Expedited Procedural Clarification upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Portland, Oregon this 27<sup>th</sup> day of September, 2002.

/s/ Pamela L. Jacklin  
Pamela L. Jacklin  
Of Attorneys for PacifiCorp and, for the purposes  
of this filing only, on behalf of the filing utilities